IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No. 2374 of 1999

Between:

A.S.Lingam, S/o. Kistaiah, Occ:Conductor,

E.251604, R/o. Post:- Korpole, Mandal Pulkal,
Medak Dsirtict.

..... PETITIONER

AND

1 The A.P State Road Transport Corporation,

Rep. by its Managing Director,
Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C.,
Sangareddy.
3 The Depot Manager, A.P.S.R.T.C. Bus Depot,
Sangareddy, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of WRIT OF CERTIORARI and quash the impugned order of removal passed by the 3rd Respondent vide proceedings dt. 26.12.1997 and consequential order of the 2nd Respondent dated. 15.9.1998 in so far as denying the petitioner with his past service along with continuity of service and back-wages as arbitrary, unjust and in violative of Articles 14, 16, 21 of the Constitution of India and consequently direct the Respondent's Corporation to treat the fresh appointment as reinstatement into service with continuity of service along with consequential benefits including back-wages in the interest of justice and fair play and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD, Advocate

Counsel for the Respondent Nos.1 to 3: MR.V.T.M.PRASAD, SC FOR APSRTC

The Court made the following:

ORDER:

This writ petition is filed being aggrieved by the proceedings issued by the 2nd respondent in his proceedings dated 15.09.1998 in so far as denying the continuity of service and back wages to the petitioner.

The petitioner was appointed as a Conductor in the respondent Corporation with effect from 21.04.1984. His services were regularized in the said cadre with effect from 01.09.1989. While so, he was removed from service of the Corporation on 26.12.1997 after conducting a detailed enquiry into the misconduct alleged against him. Aggrieved by the same, he preferred an appeal and the same was rejected on 15.01.1998 and further in the review petition, preferred by the petitioner, the order of removal was set aside and he was directed to be appointed afresh by an order dated 15.09.1998. Aggrieved by the same, he filed the present writ petition stating that the reviewing authority having held that the petitioner had 9 years of clean service, ought to have also granted continuity of service and back wages. Hence this writ petition.

A detailed counter affidavit has been filed by the respondent Corporation denying the allegations made by the petitioner and further it is stated that when the petitioner was conducting bus No.9962 on the route Sangareddi to Yadagirigutta, a check was exercised at stage No.23/24 at about 8.20 hours on 17.07.1997 and it was detected that

(i) he failed to observe the rule Issue and Start, (ii) having collected the requisite fare of Rs.16.50 ps. From three passengers who boarded the bus at Jagdevpur and bound for Hanumapuram Ex-stages 22 to 27 but re-issued tickets bearing No.1460376168 to 170 of Rs.5.50 ps. Denomination which are valid from Toopran to Gajwel, Ex-stages 13 to 18 and (iii) he closed the SR up to stage No.23 without completing the ticket issues. The misconduct is grave in nature and it is a matter of record and the enquiry officer after giving full opportunity to the petitioner and on the

basis of the record held that the petitioner was guilt of the charges. The disciplinary authority after going through the enquiry report and on appreciation the facts by himself, removed the petitioner from service. The appellate authority rejected the appeal. However, the reviewing authority/Regional Manager took a lenient view of the matter in view of the clean service of 9 years and granted relief of fresh appointment and the same is neither illegal nor arbitrary and it does not call for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material placed on record.

At the outset, I am of the opinion that though the punishment is grave in nature, in view of the findings of the reviewing authority itself that the petitioner had put in 9 years of continuous clean record as a conductor, imposing the punishment of fresh appointment is, in the circumstances of the case, disproportionate to that of misconduct alleged and proved against the petitioner. As contended by the learned counsel for the respondent Corporation the misconduct is a matter of record, however, this being the first misconduct and the petitioner had put in more than nine years continuous clean service, the reviewing authority ought not to have directed fresh appointment of the petitioner denying the entire past service rendered by him and also the wages and attendant benefits. Therefore, I am of the considered opinion that the petitioner deserves for some more relief in the overall circumstances of the case and denial of continuity of service is a harsh punishment, and hence, I am of the view that the petitioner is entitled for reinstatement into service with continuity of service but without any attendant benefits and without any back wages.

In that view of the matter, I deem it appropriate to allow the writ petition with a direction to the respondents to reinstate the petitioner with continuity of service but without any back wages and attendant benefits.

Accordingly, the Writ Petition is allowed to the extent indicated above. No order as to costs.

C.V.RAMULU,J

Dated: 21.07.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Managing Director,

APSRTC, Musheerabad,

Hyderabad

2. The Regional Manager,

APSRTC, Sangareddy

3. The Depot Manager,

APSRTC, Sangareddy,

Medak District

4. Two CD copies